

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19081
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff decision adjusting a property tax reduction benefit for 2005. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision.

The amount of the property tax reduction benefit depends on the income received by a claimant and the claimant's spouse--the greater the income, the smaller the benefit. [Redacted] (petitioner) filed a property tax reduction benefit application on January 5, 2005.

The staff routinely reviews the applications the petitioners submit to the county where they live. During this process, the staff examined the petitioner's application and the attached documents. The petitioner's application shows her as a married woman. However, information submitted with the application indicated the petitioner's husband's income had not been included in the household income. Because the income information did not appear to be complete, the staff notified the petitioner of the intent to deny her the benefit for 2005.

The petitioner answered the notice of intent with a letter of protest dated October 5, 2005. She said she and her husband divorced after less than a year of marriage because her spouse and his son were violent towards her. She included a copy of her Marriage License, an Order of Default for divorce signed April 26, 2005, a Protection Order, and a Notice of Hearing. The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-701 states in pertinent part:

63-701. DEFINITIONS. As used in this chapter:

(1) **"Claimant" means a person who has filed a claim** under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, a claimant must be an owner of the homestead and on January 1 of said year a claimant must be:

- (a) Not less than sixty-five (65) years old; or
- (b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or
- (c) A widow or widower; or
- (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or
- (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veterans affairs; or
- (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or
- (g) Blind.

(2) "Homestead" means the dwelling, owner-occupied by the claimant as described in this chapter and used as the primary dwelling place of the claimant and may be occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built. "Homestead" does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(3) **"Household" means the claimant and the claimant's spouse.** The term does not include bona fide lessees, tenants, or roomers and boarders on contract. "Household" includes persons described in subsection (8)(b) of this section.

(4) **"Household income" means all income received by the claimant and, if married, all income received by the claimant's spouse, in a calendar year.** (Emphasis added.)

Idaho Code § 63-701 uses definitions to describe eligibility and income requirements for an applicant to qualify for a property tax reduction benefit. These definitions are not the same definitions used in other sections of Idaho Code or even in the common dictionary. However, the definitions are very specific.

The law must be followed as written. If it is socially or economically unsound, the power to correct it is legislative, not within the powers of the Tax Commission. John Hancock Mutual Life Insurance Co. v. Neill, 79 Idaho 385, 319 P.2d 195 (1957).

In the present case, the petitioner, a disabled veteran, filed a claim. She is the claimant. The household is defined as the claimant and the claimant's spouse. Household income is defined as all income received by the claimant and, if the claimant is married, the claimant's spouse in a calendar year. Income received in calendar year 2004 is used to determine the benefit to be paid for property tax year 2005. The petitioner had a spouse during calendar year 2004 and until after April 15 of the following year.

Idaho Property Tax Administrative Rule 600 states: "The burden of claiming exemption and the burden of proof of entitlement to the exemption is on the person claiming exemption for the property." The petitioner has not established her 2004 household income because she has not included her husband's 2004 income. Without the proper income information, the Tax Commission must deny the petitioner the property tax reduction benefit for 2005.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the county commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the decision of the State Tax Commission staff is hereby APPROVED,
AFFIRMED and MADE FINAL.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this _____ day of _____, 2005, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]
[REDACTED]

Receipt No.